

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
JUN 9 1983

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted disclosed that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your organization is comprised exclusively of the operators of [REDACTED] restaurants in the State of [REDACTED]. Your purpose is to advertise for your members. Your organization uses advertising materials provided by [REDACTED].

Your activities are supported through a continuing membership fee of [REDACTED] percent of each month's gross sales of each [REDACTED] Restaurant owned by [REDACTED] or owned by a franchisee who contracts to participate in the State of [REDACTED].

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If any organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes if it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

[REDACTED]

The presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Code section 501(c)(3), regardless of the number or importance of truly exempt purposes. (See *Better Business Bureau v. U.S.* 326 U.S. 279 (1945), *CT.D.* 1650, 1945 CB 375.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Advertising for [REDACTED] restaurants benefits private interests by increasing business done by the [REDACTED] restaurants. This activity and purpose is not an exclusively religious, charitable, scientific, literary or educational purpose.

Accordingly, it is held that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

We are not ruling on your qualification for exemption under any related paragraph under IRC 501(c).

If you accept our findings, you do not need to take further action.

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at our Regional office or, if you request, at any mutually convenient District office.

If we do not hear from you within 30 days from the date of this letter, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director